

CALIFORNIA PUBLIC UTILITIES COMMISSION
Water Division

APPLYING FOR A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY
FOR A WATER OR SEWER SYSTEM COMPANY

Standard Practice U-10-W

San Francisco, California
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Purpose

1. The purpose of this standard practice is to provide a guide in filing and processing an application for a certificate of public convenience and necessity (certificate) to construct a water system, a sewer system or a noncontiguous extension of a water system.¹ It is written primarily for the utility owner or staff member who has not prepared or processed a certificate application before. At the same time it can serve as a review for the more experienced staff who are only occasionally assigned a certification matter. You will undoubtedly have a number of questions. Don't hesitate to ask your supervisor for assistance. Members of the public who want to establish a privately-owned water or sewer system can benefit from this information also. Please contact the Water Division if you have any questions.
2. In communicating with the potential applicant, you should encourage submittal of the application to the Water Division for review before the formal filing. Experience has proven that early informal review or what is proposed for formal filing can save considerable time and effort.

General Information

3. An application must comply with the Commission's Rules of Procedure, particularly those rules in Articles 2, 4, 5, 8, and 23. The design and construction of a water system must comply with the requirements of the Commission's General Order No. 103, Rules Governing Water Service Including Minimum Standards for Design and Construction. The filing fee is \$75.
4. With respect to the mechanics of the preparation of an application:
 - Paper size: 8 ½ x 11 inches.
 - Use only one side of the paper.
 - Double space all text material. Single space tabulated data.
 - The Docket Office requires an original and seven conformed copies.
 - For convenience in handling, maps should not exceed a rectangular size of about 30 x 40 inches and must be folded to the size of the application.

¹ Chapter 1109 of the Statutes of 1970 amended the Public Utilities Code such that sewer system corporations would be subject to Commission regulation, effective July 1, 1971.

5. The Commission ordinarily certifies only that portion of a subdivision wherein facilities have been planned in detail and the construction scheduled to go forward as soon as the certificate decision has been issued.
6. The Commission favors one large utility over two smaller utilities, other things being equal; therefore, if there is an established utility within the immediate area of a real estate development, the applicant should explore the possibility of having the existing utility provide the service. The Commission will not certify a developer to establish a new utility merely because the developer owns or controls the land to be served. In fact, Resolution No. M-4708, August 28, 1979, says the Commission will (for a Class D water company with less than 501 service connection):²
 - (a) “Deny certificates of operations which are likely to be unviable or marginally viable or provide inadequate service, whether or not an existing entity can provide service to the subject area;
 - (b) deny certificates for a potentially viable system if another entity, such as a public utility or public district, is able to serve the proposed area;
 - (c) cancel unexercised certificates for operations unlikely to be viable systems if developed; likewise cancel certificates for constructed systems serving no customers when the owner requests a transfer and sale of the utility which would not be likely to result in a viable operation;
 - (d) support and promote the conversion of unviable or marginal water utilities to public ownership or their mergers with more viable entities when opportunities arise and customer service is more likely to improve through such change than without it;
 - (e) grant certificates for proposed water system only when (1) need for the utility is demonstrated by applicant showing that no other entity is willing and able to serve the development and concrete present and/or future customer demand exists and (2) viability is demonstrated, ordinarily through the following tests:
 - proposed revenues would be generated at a rate level not greatly exceeding that set for comparable service by other water purveyors in the general area;
 - that utility would be self-sufficient, i.e. expenses would be supported without their being allocated between the proposed utility and other businesses;

² Resolution No. M-4708, August 28, 1979, SUBJECT: “Resolution for Commission Adoption on Certification Policy for Water Companies and Support of Mergers of Small Water Companies or their Conversions to Public Status” Doc. Mgmt. #263985.

- the applicant would have a reasonable opportunity to derive a fair return on its investment, comparable to what other water utilities are currently being granted.”
7. With respect to the type of business organization to be set up, applicants should be advised that under the Commission’s regulatory jurisdiction, staff members must have access to all books and records of a public utility and a public corporation must obtain Commission authority to issue its stock even if the corporation is engaged in business activities not related to the public water utility. For these reasons, the staff suggests that applicants explore the feasibility of establishing the utility as an entity separate from any other business activity.
 8. The environmental impact assessment should be done by the county. The application should include a copy of any environmental impact assessment that has been made or at least the water-related portions of the assessment.
 9. Rules of Practice and Procedure 2, 3, 4, 5, 6, 7, 15, 16, and 17 set forth the standard requirements of a formal application to the Commission. When an application is received in the Docket Office conformance with these requirements is checked. If found to fulfill these requirements the application is “docketed”.
 10. The Government Code, Sec. 65920 through 65957, sets forth certain requirements that agencies of the State must follow in their permitting responsibilities. These certificate procedures must conform with those requirements. In brief and as related to certificates for water or sewer systems, we have 30 days from the filing of an application to notify the applicant of any technical deficiencies in the filing and also that, although the application has been accepted for filing, it is incomplete. At the same time the applicant must be notified specifically regarding what must be provided to make the filing complete. Upon receipt of the additional material, a new 30-day review period begins. These technical deficiencies must be corrected before the application is determined to be complete. If not required at that time the information cannot be requested later. This does not preclude a later request to supplement information previously provided. An example would be work-papers to support an expense item.
 11. The “Outline Guide for a Water Certificate Application”, should be used in reviewing an application for completeness. The “Check List of Information To Be Obtained In Connection With Certificate Applications Of Water Utilities” can also be used.

Advice of Participation

12. After filing, staff prepares the Advice of Participation. The scope of the project should be defined and any issues identified. If it appears that participation by other staff (legal, audit, etc.) will be required, a meeting with these possible participants will be arranged by your section supervisor or the Branch Chief to further clarify the issues and scope the course of action. When issues or potential issue come up in your investigation, bring them to your supervisor's attention.
13. As the format of the Advice of Participation indicates, it is a formal means of informing the other staff organizations regarding what we plan to do in carrying out our responsibilities concerning a particular application. For the more complex and lengthy proceedings, a work schedule should be attached.
14. The Commission does not necessarily hold a hearing on an application for a water or sewer system certificate, but may issue its decision on an ex parte basis. Hearings may not be required where the application is relatively complete and where there are no parties protesting, or likely to protest, the granting of an application.

Staff Report

10. An inspection of the site for the proposed water system, or in some situations the water system as constructed, should be made. In addition to providing you with a better mental concept of the project, you can verify certain information given in the application.
11. The "Check List of Information...." will provide a guide to what you should be investigating in the field. It should be remembered that the Check List is only a guide. The particular application, circumstance, and your judgment will govern. There will be times when certain items on the Check List will be of considerable importance and other when they are of little importance.
12. Now that you have made the field investigation and become fully involved with the project, you are ready to proceed with a more detailed analysis. For the most part, this work will be what you base your Staff Report on. It may be necessary to request additional information from the applicant for this purpose (supplemental information).

13. You will want to check the applicant's calculations as well as make independent calculations. Information should be verified. You will need to make independent inquiries for information: The Department of Health Services, Department of Water Resources, local planning commissions, local health department, local fire protection agencies, etc.
14. Although various structures can be used for your report, it is suggested that you follow that of the application. This allows an easy accommodation to the reader who may want to make cross-reference with the application. It should not be simply a repetition of the application but an analysis of it. It will be necessary to repeat some information to allow the reader, who cannot or does not choose to make reference to the application, a full understanding of the aspect of the application under analysis.
15. You should remember that most of those who read your report know little or nothing concerning certification of water systems. In addition, they are probably not familiar with the technical terminology of your profession. Be expansive in your writing. The more you explain in your report the less you will have to explain through cross-examination in the event of a hearing.
16. Normally, Water Division will provide a staff report on any new water or sewer service utility requests for certification. The report shall include³:
 - a. Brief history of company
 - b. Current circumstance of company
 - i. Physical condition and improvements needed
 - ii. Service quality
 - iii. Financial condition
 - iv. Rate base – value of plant, advances, contribution, depreciation
 - c. Profile of owner
 - d. Capability of owner
 - i. Financial
 - ii. Operation and maintenance
 - e. Purchase Price (to include discussion of payment over book value)
 - f. Conclusions and Recommendation (to include conditions or requirements for improvement that we would line in the decision)

³ Letter from Wes Franklin, Chief, Hydraulic Branch, to Mary Carlos, Chief, Administrative Law Judge, April 15, 1985, Subj.: Sales or Transfers of Water Utilities

The Hearing

17. Most certification applications are processed without a hearing. In those proceedings the matter is straightforward and there are not issues or controversy. However, occasionally you will be expected to explain and expand on your project investigation and recommendations in a hearing.
18. General guidelines for hearing conduct are all that need to be stressed here. Be prepared. Know your material. In preparation, anticipate what the questions could be and be able to answer them. By the time you get to a hearing you should have a very good understanding of the issues and controversy. Be professional. Answer the questions in the shortest and most direct manner that you can without withholding information. Don't take the nature of the questions personally. Be detached and objective.

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY
(FROM PU CODE)

Article 1. Specified Utilities

1001. No railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation, water corporation, or sewer system corporation shall begin the construction of a street railroad, or of a line, plant, or system, or of any extension thereof, without present or future public convenience and necessity require or will require such construction.

This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line, plant, or system, and not theretofore served by public utility or like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable.

1001.5 (a) The commission shall exempt the construction of any line, plant, or system, or extension thereof, located outside the boundaries of the state from the requirements of Section 1001, upon the application of the public utility constructing that line, plant, or system, or extension thereof, if the public utility derives 75 percent or more of its operating revenues from outside the state, as recorded in the fiscal period immediately before the filing of the application, unless the commission determines that the public interest requires that the construction should not be exempt from Section 1001.

(b) Except as provided in subdivision (c), the commission shall make the determination denying the exemption, as specified in subdivision (a), within 90 days after the public utility files the application for exemption with the commission. If the commission fails to make this determination within that 90-day period, the construction of that line, plant, or system, or extension thereof, is exempt from the requirements of Section 1001.

(c) The commission and the public utility filing the application for exemption say, if both agree, extend the time period within which the commission is required to make the determination denying the exemption, for not more than an

additional 6 days after the expiration of the 90-day period specified in subdivision (b), (Added 1983, Ch. 971.)

1002. (a) The commission, as a basis for granting any certificate pursuant to Section 1001 shall give consideration to the following factors:

- (1) Community values.
- (2) Recreational and park areas.
- (3) Historical and aesthetic values

(4) Influence on environment, except that in the case of any line, plant, or system or extension thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (Chapter 55 (commencing with Section 4321) of Title 42 of the United States Code) or similar state laws in the other state, the commission shall not consider influence on the environment unless any emissions or discharges therefrom would have a significant influence on the environment of this state.

1011. The provisions of this article are enacted under the State's reserved power over public utilities or corporations, or both, as the case may be, for the purpose of acting on the right of the grantee of a public utility franchise granted by a city, county, or city and county, or exercise rights thereunder, and not for the purpose of acting on the right of any city or city and county to grant any such franchise. The Legislature hereby declares that the provisions of this article shall remain in full force and effect concurrently with the right of any city or city and county to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law. (Former Sec. 50(e).)

Information on Filing (Notes on the Rules of Practice and Procedure)

Rule 2 Form and Size of Tendered Documents

- 1½-line or double spacing allowed
- both sides of page may be used
- don't bind transmittal letter (optional) to document

Rule 3 Caption, Title, and Docket Number

- (a): leave space (1½" X 2½") for docket stamp in upper right
- clearer format requirements for title page
- name, address, phone number, fax number and e-mail address of person authorized to receive service either on title page or after signature

Rule 4 Signatures

- (b): signature certifies certain acts and representations by the signer; signing should not be taken lightly
- (c): signature of either party or attorney/representative (no longer both) in most cases
- list of authorized signers for party does not cover limited liability companies; or LLCs, signature of either officer or manager required (will eventually amend rule to include)
- (d): OK for party or attorney to sign on behalf of others, but parties must be listed in title or 1st paragraph; signature certifies authorization; each party listed is deemed to have filed the documents
- (e): copy of signature page may be filed (unless original specifically required by other rule or statute), but signer must retain the original and produce it at ALJ's request until proceeding completely over, all appeals exhausted.
- thus, photocopy of faxed signature page could be submitted for filing **if** "clear and permanently legible" (see Rule 2)

PRACTICE TIP: If an original signature page is submitted, make it easy to identify this original of the document, i.e., “original” stamp, “o” in corner, top of stack, etc.

- (f): lists some of the sanctions that may be imposed for falsity in the certification made by signing the document

Rule 5 Service

- (a): must serve ALJ in addition to all parties on service list
- (b): service by fax, e-mail, etc. with consent of served party or at direction of ALJ
- (c) service of Notice of Availability allowed if document exceeds 75 pages
 - must file full document with Commission
 - must serve full documents on any party who has previously asked for full service
 - on request of party, must serve full document within one day of party’s request
- (d): attach copy of certificate of service to served document, not necessary to attach service list (but filed original must list all persons served)
- if Notice of Availability used, must attach copy to copies of document filed with Commission.
- not required to be under penalty of perjury, but signature is certificate (Rule 4(e))
- (e): party on service list can change address or person for service on notifying Process Office, copy to all parties
- (f): ALJ can revise service list, will first give notice to all parties on existing list
- (g): ALJ can establish special service list for portion or phase of a proceeding, will first notify all parties on existing list

PRACTICE TIP: ALJ will attempt to give special list a clear and descriptive title, e.g., “Phase II service list.” Parties need to make sure that document gets served on appropriate list. If in doubt, serve all parties to the proceeding or ask the ALJ.

Rule 6 Verification

- separate verification from signature when verification made by person signing document
- see notes to Rule 4 for treatment of limited liability companies
- note that applications under Article 9 (transfers, mergers, acquisition, etc.) must be verified by all applicants

Rule 7 Copies

- before service list is established, submit original plus seven copies
- after service list is established, submit original plus four copies
- additional copy may be submitted in lieu of the original; party must retain and produce at ALJ's request

PRACTICE TIP: If 8 or 4 copies are submitted (i.e. no original), under Rule 5 the certificate of service attached to one of the copies (the “original”) must include the names and addresses of the persons and entities served. (See also PRACTICE TIP in Rule 4.)

PRACTICE TIP: The options of submitting copies of signatures (Rule 4(e)) and a copy of the documents in lieu of the original may mean that the designation of the original for filing purposes is a matter of convention. These options also permit remote parties to use fax filing agencies to submit documents to the Commission for filing. These private agencies receive faxes of documents, prepare the necessary copies, and deliver the copies to the Commission for filing. The party employing one of these agencies bears the responsibility for any failure of the agency to comply with the Commission's requirements. **Do NOT fax documents directly to the Commission for filing.**

PRACTICE TIP: The reduced number of filed copies is made possible by greater use of the “state service” category on the service list to distribute copies to interested staff members. Be sure to serve all persons on the state service list whenever service of a document is required.

PRACTICE TIP: Although Rule 11 (number of copies of complaints) is unchanged and requires an original plus 12 copies plus 2 additional copies for each defendant, Docket Office will follow an informal practice of accepting an original plus 7 copies plus 2 additional copies for each defendant, Rule 11 will eventually be changed to reflect this practice.

Rule 8 Amendments and Errata

- removes former distinction between amendments to filings and amended filings
- amendment extends time for responsive filings; if responsive filing already made before amendment filed, no need to file another response to the amendment
- procedure stated for optional filing of errata

Rule 8.01 Other Requirements

- be alert to possibility of more specific requirements elsewhere in Rules
- do not file testimony or exhibits (unless specifically required)
- no need for transmittal letter unless it is to be used to acknowledge filing (see Rule 8.12)

FILING AND DOCKET

Rule 8.11 Time, Place and Review of Filing; Docket

- (e): to avoid rejection of document, Docket Office may retire or strike part of document with the party's consent; party must notify other parties of the change
- (f): party may request waiver of requirements in body of document; ALJ will rule; if waived, filed as of date tendered

PRACTICE TIP: Highlight a request for waiver; don't bury it in the middle of the document.

PRACTICE TIP: Although deadlines are "requirements," the better practice is to follow the more specific Rule 48, rather than the request for waiver of Rule 8.11, for requests for extensions.

- (g): minor defects can be cured if done within 7 days; if not minor or curing takes more than 7 days, will be filed as of date defect is corrected
- (h): acceptance for filing doesn't excuse party from complying with rules

Rule 8.12 Acknowledgments

- rule describes procedure if acknowledgment desired

Rule 8.13 Computation of Time

- remember to exclude first day

PRACTICE TIP: Be alert to Commission holidays which are subject to collective bargaining agreements and thus can change annually and can be quirky: Columbus Day, Veterans' Day, day after Thanksgiving, Lincoln's and Washington's Birthday; some holidays not moved to Mondays when rest of the world does, some not observed at all when holiday falls on Saturday.

Rule 8.14 Filing Fees

- if statutory fee changes, statute prevails over Rules

Rule 8.15 Daily Calendar

- also available on the Commission's website at <http://www.cpuc.ca.gov>

Rule 15 CONTENTS

- All applications shall state clearly and concisely state the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought; and, in addition to specific requirements for particular types of applications (see Rules 18 through 41), shall state the following:
 - (a) The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.
 - (b) The name, title, address and telephone number of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.
 - (c) Such additional information as may be required by the Commission in a particular proceeding.
 - (d) Applications for ex parte action shall set forth the basis for such request, and those seeking the granting of relief pending full hearing shall set forth the necessity for such relief.

Rule 16 ARTICLES OF INCORPORATION

- If applicant is a corporation, a copy of its articles of incorporation, certified by the Secretary of State, shall be annexed to the original of the application, but need not be annexed to copies thereof. If current articles have already been filed, the application need only make specific reference to such filings.

Rule 17 FINANCIAL STATEMENT

- Wherever these lists provide that a financial statement shall be annexed to the application, such statement, unless otherwise provided herein, shall be prepared as of the latest available date, and shall show the following information:
 - (a) Amount and kinds of stock authorized by articles of incorporation and amount outstanding.
 - (b) Terms of preference of preferred stock, whether cumulative or participating, or on dividends or assets, or otherwise.
 - (c) Brief description of each security agreement, mortgage and deed of trust upon applicant's property, showing date of execution, debtor and secured party, mortgagor and mortgagee and trustor and beneficiary, amount of indebtedness authorized to be secured thereby, and amount of indebtedness actually secured, together with any sinking fund provisions.
 - (d) Amount of bonds authorized and issued, giving name of the public utility which issued same, describing each class separately, and giving date of issuance, par value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.
 - (e) Each note outstanding, giving date of issuance, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.
 - (f) Other indebtedness, giving same by class and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by any person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.
 - (g) Rate and amount of dividends paid during the five previous fiscal years, and the amount of capital stock on which dividends were paid each year.
 - (h) A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

REQUIREMENTS FOR CERTAIN PLEADINGS

Rule 44 Definitions

- protest is responsive filing to applications only, petitions for modification now under Rule 47
- response to application now allowed—doesn't object to requested authority, but presents relevant information

Rule 44.1 Time for Filing and Filing Requirements

- time for filing protests and responses remains 30 days, but starts from appearance of application on Daily Calendar

Rule 44.2 Contents of Protest

Rule 44.3 Service of Protest or Response

Rule 44.4 Effect of Filing a Protest

Rule 44.5 Copy of Document on Request

- these rules are substantially the same as current/former rules

Rule 44.6 Replies

- applicant may reply to protests and responses within 10 days of their filing deadline.

PRACTICE TIP: If you as the applicant want a decision quickly, file your reply sooner than the 10th day. If you do not intend to file a reply, notify the ALJ.

Rule 45 Motions

- this rule states the general requirements for motions; specific motions described in the Rules may have different or additional requirements
- (g): moving party may reply to responses within 10 days with permission of ALJ; party must state in first paragraph of reply that permission has been granted

PRACTICE TIP: Do not discuss the substance of your proposed reply or of the responses in making your request to the ALJ; merely state your request to file a reply. Any mention of the substance of the motion, response, reply, or proceeding may constitute an ex parte communication that requires a report or is prohibited (see Rules 1.1-1.7)

- (h): the ALJ may rule on motion at any time; responses or replies are not a matter of right. However, ALJs will be sensitive to due process considerations in making early rulings

PRACTICE TIP: File responses to written motions as soon as possible; don't wait until the 15th day if you want the ALJ to consider your response.

Rule 46 Petitions

- petitions that aren't specifically provided for in the Rules will be treated like written motions

Rule 47 Petitions for Modification

- (a): scope broadened to any requested change to text of decision; no longer limited to minor modifications
- no stay or appellate rights
- (b): must propose specific wording and support factual allegations
- (d): must be filed within one year of effective date of decision; petition filed more than a year later must state reason it couldn't have been filed earlier
- (e): procedure for filing of petition by someone who was not a party to the proceeding
- (f): responses (no longer protests) to petition due within 30 days of service of petition (no longer keyed to publication in Daily Calendar)
- (g): petitioner may reply to responses within 10 days with permission of ALJ; party must state in first paragraph of reply that permission has been granted

PRACTICE TIP: See warnings about ex parte communications under Rule 45.

- (h): note possibility of summary denial
- (j): correct typos with letter to Executive Director, copy to all parties

Rule 48 Extension of Time Limits

- party requesting extension of time limit set in Rules or in ALJ's or Commissioner's ruling must first attempt to get agreement of other parties, must notify other parties if request granted

- be alert to deadlines set by statute; authority of Commission and ALJ to extend statutory deadlines is questionable
- request for extension of time to comply with Commission order still directed to Executive Director, but must be submitted at least 3 business days before existing date for compliance; party must notify other parties if extension granted and state in opening paragraph of complying document (if any)

Rule 49 Prehearing Conference

- At or before first pre-hearing conference, ALJ may require parties to meet and confer on certain topics, report back with case management statement within 10 days of meeting

Scoping Memo Information for Applications

A. **Category¹**

(Check the category that is most appropriate)

Adjudicatory – “Adjudicatory” proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

Ratesetting – “Ratesetting” proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or established a mechanism that in turn sets the rates for a specifically named utility (or utilities). “Ratesetting” proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future.

Quasi-legislative – “Quasi-legislative” proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class or entities within the industry.

B. **Are hearings necessary?**

Yes

No

If yes, identify the material disputed factual issues on which hearings should be held, and the general nature of the evidence to be introduced.

¹¹ See Public Utilities Commission Rules of Practice and Procedure, Article 2.5, especially Rules 5 and 61, which appear on the Commission’s internet page (www.cpuc.ca.gov) under the heading “CPUC General Information, Rules of Practice and Procedure.”

Are public witness hearings necessary?

Yes

No

Public witness hearings are set up for the purpose for getting input from the general public and any entity that will not be a party to the proceeding. Such input usually involves presenting written or oral statements to the presiding officer, not sworn testimony. Public witness statements are not subject to cross-examination.

C. Issues

List here the specific issues that need to be addressed in the proceeding.

D. Schedule

(Even if you checked “No” in B above)

Should the Commission decide to hold hearings, indicate here the proposed schedule for completing the proceeding within 12 months (if categorized as adjudicatory) or 18 months (if categorized as ratesetting or quasi-legislative).

<hr/>	Prehearing conference
<hr/>	Hearings
<hr/>	Briefs due
<hr/>	Submission
<hr/>	Proposed decision (90 days after submission)
<hr/>	Final decision (60 days after proposed decision is mailed)

Application for a CPCN

Outline Guide for a Water Certificate Application

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of (one or)
more individuals dba or partnership dba)
or a California corporation) for a)
Certificate of Public Convenience and)
Necessity to Construct a Public Utility)
Water System near (town) in (county))
and to Establish Rates for Service and)
(if corporation) to Issue Stock)

Application No.

(PUC will Insert)

APPLICATION

The application of (exact legal name of each applicant) respectfully shows:

I

(If Individuals)

Business and residence address and telephone numbers.

(dba) utility name.

(If Corporation)

Names and addresses of principal stockholders.

State that a copy of articles of incorporation certified by Secretary of State is attached to original of application.

Name, address, and telephone number of person to whom communications regarding this application should be addressed.

II

Indicate that financial statements of the net worth of individual applicants or principal stockholders are attached as exhibits.

Explain relationship between and among subdivision land owner, developer of the subdivision, and the utility.

Show names and addresses of any other privately or publicly owned water systems within 1 mile and at least the two systems nearest to the requested area. Certify that a copy

of the application has been furnished to all parties names, to the Local Agency Formation Commission and to the county board of supervisors.

III

State that under Section 1001 of the Public Utilities Code a certificate of public convenience and necessity to construct a water system or a noncontiguous extension is requested to serve:

Identification of subdivision (name, tract number).

Geographic location (Township, Range, portion of section).

Location reference to other landmarked locations such as towns, highways, railroads, lakes, rivers, parks, airports, military bases, resort areas, etc.

Attach a location map as an exhibit which shows the location of the proposed construction and its relationship to potential competing entities and the other pertinent data. (U.S. Department of the Interior, Geological Survey quadrangle maps to the scale of 1:24,000 (1-inch equals 2,000 ft.) or a portion of county maps are suitable for location.)

IV

Describe the subdivision in which water system facilities are to be constructed showing:

Total acreage within the boundaries to be served and number of lots.

Square feet area of the smallest and largest lots, average of all lots.

Elevations above sea level of the lowest point and highest point of land.

General description of the terrain.

Character of the subdivision, urban residential, resort, etc.

Lots to be sold or leased, with or without homes.

Availability of centralized sewer system, electrical, telephone, natural gas service.

Subdivision map has or has not been approved by the county.

Attach as an exhibit a final or tentative subdivision map.

Attach a copy of the environmental assessment that has been prepared concerning the subdivision.

V

Briefly describe the proposed water system, how it is to operate and pressures to be obtained at customer services.

State that a map is attached as an exhibit which shows, with legend and symbols, all water system facilities to be installed. (The subdivision map in IV above may be used for

this purpose and if there are to be production, transmission and storage facilities outside of the subdivision a separate map to the same scale may be used to delineate these.) The maps should show some light contour lines referenced from sea level to indicate appropriate elevations. The maps should also show land to be used as utility property and easements.

Describe in detail the sources of water supply and give whatever history is available which will support claimed production capacities. If wells are sources of supply attach, as exhibits, well driller's reports and results of a 72-hour pumping test.

If the sources of supply have been developed, attach as an exhibit the test results of bacteriological and chemical analyses of the water supply.

Attach as an exhibit all computations of water requirement and supply including standby or emergency sources of water supply. The attached Water Supply Supplemental Questionnaire should be completed and submitted with the application.

Include a statement that the water system conforms with the Commission's General Order No. 103, Rules Governing Water Service Including Minimum Standards for Design and Construction.

VI

Provide a list of the principal quantities of utility plant materials by type and size to be used in constructing the water system such as pipes, tanks, services, and fire hydrants, with estimated installed unit costs.

Show the estimated cost of the proposed system, including all engineering and legal fees, in accordance with classification of utility plant accounts prescribed in the Commission's Uniform System of Accounts for Water Utilities (Class D) using the estimated status of the system at the end of the first year of operation and the end of the fifth year of operations. (See following tabulation.)

Estimated Total Utility Plant

:	:	:	<u>As of End of Year</u>		:
:	:	:	First Full	:	:
:	Ac.	:	Year of	:	Fifth
:	No.	Account	Operation	:	Year

301 Intangible Plant
 306 Land, Rights-of-Way, Easements
 Subtotal, Nondepreciable
 315 Wells
 317 Other Source of Supply Plant
 324 Pumping Equipment
 332 Water Treatment Equipment
 342 Reservoirs and Tanks
 343 Water Mains
 345 Services
 346 Meters
 347 Meter Installations
 348 Hydrants
 371 Structures
 372 Office Furniture and Equipment
 373 Transportation Equipment
 374 Other Equipment
 Totals
 250 Less: Reserve for Depreciation
 Net Utility Plant

Amount of legal fees included above?

Amount of engineering fees included above?

Is land valued at cost or market?

Have any depreciable facilities been in use for one year or more prior to application?

Amount of reserve for depreciation on facilities in use for one year or more prior to application?

VII

Show requirements of other governmental agencies and how requirements may have been met, as may be appropriate such as:

- a. Water supply permit:
 - 1) To be issued by State Department of Health Services for water systems to serve more than 200 customers, or
 - 2) To be issued by the County Health Services for water systems to serve less than 200 customers.
- b. County franchise if county has such requirement. Application should state that authority is requested to exercise a franchise which has been received or applied for.
- c. County or local fire protection district requirements for fire flow and for fire hydrants.
- d. Land use permit to obtain water from U.S. National Forest Service land.
- e. Water appropriation permit from the State Water Rights Board.
- f. Plans for a dam approved by State Department of Water Resources.
- g. Environmental impact assessments required by California Environmental Quality Act.

Identify and summarize any contracts, if any, executed or proposed, with government agencies or private parties to be involved in the continued operation of the proposed water system.

VIII

Show the rates requested;

Metered rates:

Minimum or service charge type

Monthly or annual basis

Flat rates

Size of service connection and/or customers' premises

Monthly or annual

Fire Hydrant rates

(Note: The Commission's Water Division has an available supply of tariff forms useful in designing rate schedules.)

IX

Provide the estimated operating results which includes an estimate of the number of customers, revenues, expenses, depreciation and taxes in accordance with classification in CPUC's Uniform System of Accounts for the first, fifth, and tenth year of operation. (See following tabulation.)

Estimated Operating Results

:	:	:	As of End of Year	:
:	:	:	First Full	:
:	:	:	Year of	:
:	Ac.	:	Fifth	Tenth
:	No.	:	Operation	Year
:	:	:	Year	:
:	Account	:	Year	:

Number of Customers (End of Year)

Revenues:

601 Metered Water Revenue
 602 Unmetered Water Revenue
 605 Fire Protection Revenue
 Total Revenues

Expenses:

703 Source of Water Supply Expenses-Miscellaneous
 704 Purchased Water
 726 Power and Fuel for Pumps
 734 Operation and Maintenance – Labor
 735 Operation and Maintenance – Materials
 736 Operation and Maintenance – Contract Work
 792 Office and Management Salaries
 792 Office Supplies and Expense
 793 Insurance Expense
 798 Accounting, Legal and Other Services
 799 General Expense
 801 Vehicle Expense
 Subtotal Operating Expenses
 503 Depreciation Expense*
 507 Taxes
 Total Expenses, Depreciation and Taxes

Net Revenues

Ratio of Net Revenues to Net Utility Plant
 (Approx. % return)

* Use 3% composite rate if you have no other more reasonable rate.

X

Describe plans for the operation of the utility. Show the qualifications of management and operating personnel, availability of operating personnel to customers, how billing is to be handled and provisions for handling customers' inquiries and complaints.

List nearby systems and explain why those systems cannot or will not provide service in the area¹.

State how the water system is to be financed. (If applicant is a corporation it must request PUC authority to issue it stock and substantiate the proposed expenditure of all stock proceeds.) Show how you plan to assure the financial integrity of the public utility during this development period².

State if land developer is willing to pay applicant from \$100 to \$300 through the escrow agent each time a lot is sold to cover the operating losses during a development period of 5 to 15 years.

¹ Resolution No. M-4708, August 28, 1979 states that the Commission will "deny certificates for a potentially viable system if another entity, such as a public utility or public district, is able to serve the proposed area"

² Resolution No. M-4708 states that the Commission will "deny certificates for operations which are likely to be unviable or marginally viable or provide inadequate service, whether or not an existing entity can provide service to the subject area"

XI

WHEREFORE, applicant requests an order (here state clearly and concisely the specific authorization sought).

Dated at _____, California, this _____ day of _____, 20____.

(Signature of each applicant)

(Signature, address and telephone number of attorney, if any)

Verification

I am the applicant (an officer of the applicant corporation herein, and am authorized to make this verification on its behalf) in the above entitled matter; the statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(date) (name of city)

(Signature of California or
Signature and Title of
Corporate Officer)

Staff Notes on a Sewer System Certificate Application

The attached outline has been prepared as an aid in the preparation of a formal application for a certificate of public convenience and necessity to construct a sewer system. It is designed to assist an applicant in preparing a complete application and in complying with statutory requirements; also, to enable the Commission's staff to expedite its investigation.

An application must comply with the Commission's Rules of Procedure, particularly those rules shown in Articles 2, 4, 5, 8, and 23, and Rule 17.1 (Preparation and Submission of Environmental Impact Reports). The filing fee for the application is \$75.

An applicant must file the utility's tariff schedules with the Commission after the certificate is granted per PUC General Order 96-A. These tariff schedules are composed for the service area maps, rate schedules, rules and sample forms that apply to and govern the utility. The staff will assist the utility in preparing these tariff schedules. The service area map and rate schedules must be included in the application.

The applicant must obtain the necessary permits from the Regional Water Quality Control Board and State, County and local Health Departments. The sewer system must comply with the applicable agencies' requirements and must meet acceptable engineering practices.

The Commission does not necessarily hold a hearing on an application for a sewer system certificate, but may issue its decision on an ex parte basis. Hearings may not be required where the application is relatively complete and where there are not parties protesting, or likely to protest, the granting of the application.

With respect to the mechanics of the preparation of an application:

Paper size: The size of this guide, 8½ x 11 inches, is required.

Use only one side of the paper.

Double space all text material. Single space tabulated data.

PUC requires an original and 7 conformed copies. Copies may be produced from the original by some permanent process such as Xerox but not Thermo-Fax.

For convenience in handling, maps should not exceed a rectangular size of about 30 x 40 inches and must be folded to the size of the application.

In establishing a new sewer system public utility, applicants are advised that it is Commission policy to certificate only that portion of a real estate development, wherein sewer collection and sewage treatment facilities are to be constructed initially, as opposed to the whole area a developer may own or control. In other words, the Commission ordinarily certificates only that portion of a development wherein facilities have been planned in detail and the construction scheduled to go forward as soon as the certificate decision has been issued.

The Commission staff favors one large utility as opposed to a number of smaller utilities, other things being equal. If there is an established utility wherein the immediate area of a real estate development, the developer should explore the possibility of the existing utility providing the sewer mains, sewage treatment plant and any special facilities needed to serve the development under its filed main extension rule. The Commission is unlikely to certificate a developer to establish a new utility merely because the developer owns or controls the land to be served.

With respect to the type of business organization to be set up, applicants should be advised that under the Commission's regulatory jurisdiction, staff members must have access all books and records of a public utility and a public utility corporation must obtain Commission authority to issue its stock. For these reasons the staff suggests that applicants explore the feasibility of establishing the utility as an entity separate from any other business activity.

As an aid in preparing an application of a certificate, the Commission's Water Division staff personnel would be pleased to review a single draft copy of a proposed application before the filing is made. In this manner, the staff can make comments on the contents of the proposed application which may indicate the need for any additional data or the elimination of any unnecessary information. Personnel are

available for this consultation at the Commission's headquarters, 505 Van Ness Avenue, Civic Center, San Francisco, California 94102, or the southern California area branch office, 107 South Broadway, Los Angeles, California 90012.

After an application has been filed and assigned a number, all correspondence concerned that matter should show the number in the upper right-hand corner.

Attachment

Outline Guide for a Sewer System Certificate Application

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of (one or)
more individuals dba or partnership dba)
or a California corporation) for a)
Certificate of Public Convenience and)
Necessity to Construct a Public Utility)
Sewer System near (town) in (county))
and to Establish Rates for Service and)
(if corporation) to Issue Stock)

Application No.

(PUC will Insert)

APPLICATION

The application of (exact legal name of each applicant) respectfully shows:

I

(If Individuals)

Business and residence address and telephone numbers.

(dba) utility name.

(If Corporation)

Names and addresses of principal stockholders.

State that a copy of articles of incorporation certified by Secretary of State is attached to original of application.

Name, address, and telephone number of person to whom communications regarding this application should be addresses.

II

Indicate that financial statements of the net worth of individual applicants or principal stockholders are attached as exhibits.

Explain relationship between and among the landowner, the developer, and the utility.

Show names and addresses of any other privately or publicly owned sewer systems within 1 mile and at least the two systems nearest to the requested area. Certify that a copy of the application has been furnished to all parties named and to the county board of supervisors.

III

State that under Section 1001 of the Public Utilities Code a certificate of public convenience and necessity to construct a sewer system or is requested to serve:

Identification of development (subdivision name(s), tract number(s), etc.)

Geographic location (township, range, portion of section).

Location reference to other landmarked locations such as towns, highways, railroads, lakes, rivers, parks, airports, military bases, resort areas, etc.

Attach a location map as an exhibit which shows the location of the proposed construction and its relationship to potential competing entities and the other pertinent data. (U.S. Department of the Interior, Geological Survey quadrangle maps to the scale of 1:24,000 (1-inch equals 2,000 ft.) or a portion of county maps are suitable for location.)

IV

Describe the development in which sewer system facilities are to be constructed showing:

Total acreage within the boundaries to be served and number of lots.

Square feet area of the smallest and largest lots, average of all lots.

Elevations above sea level of the lowest point and highest point of land.

General description of the terrain.

Character of the subdivision, urban residential, resort, etc.

Lots to be sold or leased, with or without homes.

Attach as an exhibit a tabulation of estimated customers (residential, commercial, industrial, etc.) for the first, fifth and tenth years of operation.

Availability of water system, electric, telephone, natural gas services.

Subdivision map has or has not been approved by the county.

Attach as an exhibit a final or tentative subdivision map.

V

Briefly describe the proposed sewer system, how it is to operate, and the level (primary, secondary, tertiary) and method used for sewage treatment and disposal.

State that a map is attached as an exhibit which shows, with legend and symbols, all sewer system facilities to be installed. (The subdivision map in IV above may be used for this purpose and if there are to be collection, treatment and disposal facilities outside of the development a separate map to the same scale may be used to delineate these.) The maps should show some light contour lines referenced from sea level to indicate appropriate elevations. The maps should also show land to be used as utility property and easements.

If the sewage treatment facilities have been constructed or are in the planning stage, attach as an exhibit an engineering analysis showing the capacity and capabilities of the facilities.

Attach as an exhibit all computations of sewage flow rates and sewage characteristics. These computations should be part of an engineering report or analysis of the sewage collection, treatment and disposal facilities.

VI

Provide a list of the principal quantities of utility plant materials by type and size to be used in constructing the sewer system such as pipes, pumps, motors and treatment plant components, with estimated installed unit costs.

Show the estimated cost of the proposed system, including all engineering and legal fees, using the estimated status of the system at the end of the first year of operation and the end of the fifth year of operations. (See following tabulation.) The Commission does not yet have a Uniform System of Accounts for sewer system utilities so that the tabulation contains suggested accounts.

Estimated Utility Plant

:	:	<u>As of End of Year</u>		:
:	:	First Full	:	:
:	:	Year of	:	Fifth
:	:	Operation	:	Year
:	Account	:	:	:

Intangible Plant

Land, Rights-of-Way, Easements

Subtotal, Nondepreciable

Buildings and Structures

Pump Station Equipment at Treatment Plant

Treatment and Disposal Equipment

Other Plant Equipment

Outfall Sewer Main and Sprinkler Equipment

Collection Sewers

Service Lateral Sewers

Pump Station Equipment on Collection Systems

Transportation Equipment

Office Furniture and Equipment

Miscellaneous Equipment

Total

Less: Reserve for Depreciation

Net Utility Plant

Amount of legal fees included above?

Amount of engineering fees included above?

Is land valued at cost or market?

Have any depreciable facilities been in use for one year or more prior to application?

Amount of reserve for depreciation on facilities in use for one year or more prior to application?

VII

Show requirements of other governmental agencies and how requirements may have been met, as may be appropriate such as:

- h. Waste water (sewage) discharge resolution to be issued by State Regional Water Quality Control Board.
- i. County franchise if county has such requirement. Application should state that authority is requested to exercise a franchise which has been received or applied for.
- j. State, county or local public health departments' requirements for waste water treatment and disposal.
- k. Land use permit for sprinkler disposal of effluent on land (of applicable).

Identify and summarize any contracts, if any, executed or proposed, with government agencies or private parties to be involved in the continued operation of the proposed water system.

VIII

Show the rates requested;

Measured rates:

Basis of measurement (metered water usage, etc.)

Minimum or service charge type

Monthly, bi-monthly, or annual basis

Flat rates

Base rate for service

Basis for determining the rates for customers other than single-family residential.

Monthly, bi-monthly or annual basis

IX

Provide the estimated operating results which include an estimate of the number of customers, revenues, expenses, depreciation and taxes for the first, fifth, and tenth year of operation. (See following tabulation.). Refer to CPUC's Uniform System of Accounts for Water Utilities as a guide in compiling this tabulation.

Estimated Operating Results

Item	As of End of Year			
	First Full			
	Year of	Fifth	Tenth	
	Operation	Year	Year	
Number of Customers (End of Year)				
Revenues:				
Residential Revenues				
Commercial Revenues				
Industrial Revenues				
Subtotal				
Miscellaneous Operating Revenues				
Total Revenues				
Expenses:				
Purchased Power and Fuel for Pumps and Motors				
Operation and Maintenance – Labor				
Operation and Maintenance – Materials				
Operation and Maintenance – Contract Work				
Office and Management Salaries				
Office Supplies and Expenses				
Rents				
Insurance Expense				
Accounting, Legal and Other Services				
Vehicle Expense				
General Expense				
Subtotal Operating Expenses				
Income Taxes				
Taxes Other Than Income Taxes				
Depreciation Expense*				
Total Expenses, Depreciation and Taxes				
Net Revenues				
Ratio of Net Revenues to Net Utility Plant (Approx. ____% return)				

* Use 3% composite rate if you have no other more reasonable rate.

X

Describe plans for the operation of the utility. Show the qualifications of management and operating personnel, availability of operating personnel to customers, how billing is to be handled, and provisions for handling customers' inquiries and complaints.

State how the sewer system is to be financed. (If applicant is a corporation it must request PUC authority to issue its stock and substantiate the proposed expenditure of all stock proceeds.) Show how you plan to assure the financial integrity of the public utility during this development period.

State if land developer is willing to pay applicant from \$100 to \$300 through the escrow agent each time a lot is sold to cover the out-of-pocket operating losses during a development period of 5 to 15 years.

XI

WHEREFORE, applicant requests an order (here state clearly and concisely the specific authorization sought).

Dated at _____, California, this _____ day of _____, 20____.

(Signature of each applicant)

(Signature, address and telephone number
of attorney, if any)

Verification

I am the applicant (an officer of the applicant corporation herein, and am authorized to make this verification on its behalf) in the above entitled matter; the statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(date) (name of city)

(Signature of California or
Signature and Title of
Corporate Officer)

Name of Utility _____ Appl/Case No. _____
 Location _____ Date Prepared _____
 Engineer _____

CHECK LIST OF INFORMATION TO BE OBTAINED IN CONNECTION WITH CERTIFICATE APPLICATIONS OF WATER UTILITIES

	Satis.	Remarks, if unsatisfactory or qualifying
REVIEW OF THE APPLICATION		
Should show the following in compliance with Rule 13, Commission's Rules of Procedure		
Description of Proposed Construction		
Pipe sizes		
Pipe location (streets, alleys, easements, etc.)		
Sources of supply		
Type of system (pressure, gravity or combination)		
Storage		
Other		
Names and addresses of All Competing or Adjacent Water Systems Appear to be Complete		
Map showing Proposed Facilities and General Location of the Water System		
Estimated Cost of Operation Stated Utility Plant		
Estimate of cost		
Reasonableness of cost estimate		
Method of financing		
Other		
Statement of Proposed Rates		
Other Pertinent Information		

ENGINEERING

Complete after field investigation.	
General Field Inspection	
Sources of water supply	
Wells	
Springs	
Streams	
Purchased	
Adequacy	
	(from Attachment 1)
Storage facilities	
	(existing or proposed)
Sites (elevated, etc.)	
Type of construction	
Capacity (in conjunction with	
	supply from Attachment 1)
Distribution system	
	(existing or proposed)
Pipe materials	
	(gauge, if steel)
Pipe coating or lining	
	(if any)
Dead ends eliminated or	
	well designed
Depth of pipe per G.O. 103	
Pressure contour study	
Effect of soil on pipe	
Adequate valving	
Transmission system (if any)	
Materials	
Design (in conjunction with	
	storage)

Pumping equipment (if any)

Locations

Automatic controls (if necessary)

Booster capacity (if any)

Well capacity (if any)

Proper design for
requirement

Standby and emergency
provision (if any)

Chlorination (if any)

Review of Plant Costs

Set forth on Attachment 2

Reasonableness of costs

Sites Deeded to Utility and at
Reasonable Cost

Well sites

Tank sites

Pump sites

Filter or other water supply
sites

Office or other building sites

Location of Pipelines

In Public streets

In utility easements

In rights of way

Location of Adjacent Utilities as
Indicated in Application

FINANCIAL

Applicant Financially Sound

Affiliated Operations

Separation of revenues

Separation or allocation of
expenses

Charges to plant accounts

Financing of Extensions

ESTIMATES OF FUTURE OPERATIONS

Management or Supervision

Physically capable (if by owner)

Knowledge of water works
operation

Availability

Planned Growth

Subdividers advance contracts

Average no. cust. for year _____

Estimated gross revenue for
year _____

Operating Expenses

Personnel requirements

Provision for accounting

Foreseeable increases

OPERATION REQUIREMENTS

Operating Procedures

Knowledge of Uniform System of
Accounts

Knowledge of Annual Report
Requirements

Knowledge of tariff filing procedure

Advice letters

Rates

Rules

Tariff service area map

Sample forms

Knowledge of service and
facilities map requirements

Scale

Bill payment procedure

Place for public contact for
service complaints or
emergencies

Knowledge of G.O. 103

PUBLIC AGENCY REQUIREMENTS

City or County Franchise
Requirements Met

Health Permit

Temporary Permit

Final approval

Other Public Agency Requirements